

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed January 11, 2006. At the time of the Office Action, Claims 1-10 and 19-43 were pending in this Application. Claims 1-10 and 19-43 were rejected. Claims 1, 2, 4-10, 16-35, 38, and 42 have been amended to further define various features of Applicants' invention. Claims 11-18 have been cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 1-10 and 19-32 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 1-10 and 19-32 to overcome these rejections and respectfully request full allowance of Claims 1-10 and 19-32 as amended.

Rejections under 35 U.S.C. §103

Claims 1-10, 24-26, 32-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,385,297 issued to Alan D. Rein *et al.* (hereinafter "Rein"). Applicants respectfully traverse and submit the cited art does not render the claimed embodiments of the invention obvious.

In addition, Claims 19-23, 27-31, 34, 35 and 38-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rein in view of U.S. Patent 5,950,150 issued to Steven J. Lloyd *et al.* ("Lloyd"). Applicants respectfully traverse and submit the cited art combination, even if proper, which Applicants do not concede, does not render the claimed embodiments of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Rein is directed to "an air conditioning system, and more particularly, to a wireless communication system between the air distribution controllers and the zone temperature sensors in the zone to be controlled." (Rein, Col. 1, lines 1-5) Consequently, the only "event or condition" monitored in the Rein system is temperature -- nothing else. The presently claimed inventive system is not directed to a mere air conditioning system with a wireless thermostat for a particular zone. The present inventive system includes one detector capable of sensing temperature, plus at least one additional sensor capable of detecting a condition or event selected from the group consisting of pressures, emissions, and levels. Rein fails to disclose and/or suggest such subject matter and thus, does not render the claimed inventions obvious.

The present inventive system also includes a central processing location for receiving and, of course, processing signals not only relating to temperatures, but relating to pressures, levels, and/or emissions. Since Rein only discloses a temperature sensor, it follows that Rein's "central receiver 66" only receives one type of condition or event signal, *i.e.*, a temperature related signal. Thus, Rein's "central receiver 66" only receives signals relating to one type of condition or event in the plant, *i.e.*, temperature. Rein's "central receiver 66" not only does not receive pressure, level, and/or emission signals but it cannot process such signals. Since Rein fails to teach and/or suggest a central processing location to receive and process pressure, level and/or emission signals, Rein does not render the claimed inventions obvious.

The Examiner seems to consider Rein's system capable of detecting "at least two conditions or events," *i.e.*, "temperature" and "level, *i.e.*, battery level." It should be noted that the previously pending claims (and the currently amended claims) required (and still

require), using the Examiner's logic, detecting and transmitting at least three conditions or events, *i.e.*, at least two conditions or events selected from the group consisting of "emissions, temperatures, levels, and pressures," plus a "battery" condition. Rein clearly fails to teach and/or suggest the combination of the detection of temperature, plus the detection of a condition selected from the group consisting of "emissions, levels, and pressures," plus the transmission of signals relating to temperature, plus the transmission of signals relating to "emissions, levels, and/or pressures," plus the transmission of signals relating to battery condition. There is simply nothing in Rein that teaches or suggests a system that detects emissions, pressures, and/or levels (*e.g.*, levels of materials in a tank). And as noted above, Rein certainly does not teach and/or suggest a central processing location for receiving and processing pressure, level, and/or emission signals, plus temperature and battery signals. Thus, Rein cannot render the claimed inventions obvious.

Certainly, the limitation "level" in the claim does not include or mean the same thing as "low battery," and the two are not intended to be synonymous. Clearly, if Applicants meant for them to be the same -- Applicants would have used the same terms in the specification and claims. The claims have been amended to make this distinction clear. Support for this amendment is found in the specification on page 23, lines 30-33 referring to a "low battery transmission signal" contrasted with the disclosure in a separate paragraph on the next page, *i.e.*, page 24, lines 11-15, wherein the Applicants teach that "other detectors may be utilized including temperature, pressure, and level detectors alone or in combination with others." The phrase "level detectors" referred to on page 24 is clearly understood by one of ordinary skill in the art (1) to be unrelated to the low battery transmission signal referred to previously, and (2) related to detectors that detect the level of materials in, *e.g.*, tanks located in tank farms and/or terminals where materials, *e.g.*, fuels, are stored.

Thus, Applicants respectfully request withdrawal of the obviousness rejection over Rein. Nothing in Rein teaches or suggests a system having battery powered detectors and transmitters to detect and transmit (1) temperature signals, plus (2) pressure, level, and/or fugitive emissions signals, plus (3) battery condition signals. And certainly, Rein fails to teach "a central processing system for receiving and processing" such signals as pressure,

emissions, and/or level signals. Applicants request favorable action with regard to Claims 1-10, 24-26, 32-37.

In addition, and with respect to Claims 5, 6, 9, 10 and 32, Applicants further note that these claims were rejected on the basis that "900 megahertz spread spectrum transmitters" were "conventional in the art." It is worth noting that while the use of 900 megahertz spread spectrum transmitters may be conventional in the art today, *e.g.*, 2006, they were not conventional in the art at the time of the invention or on the filing date of the subject matter in the present application supporting the use of 900 megahertz spread spectrum transmitters, *i.e.*, November 17, 1994. (See page 1, lines 14-18 and page 24, lines 1-6.) Indeed, it is noted that none of the prior art cited by the Examiner, *i.e.*, neither Rein nor Lloyd, even teach the use of a 900 megahertz spread spectrum transmitter. Applicants submit neither refer to a 900 megahertz spread spectrum transmitter because the use of such was not conventional on the filing dates of either references, *i.e.*, 1993 (divisional of application filed in 1991) and 1997 (a continuation-in-part of an application filed in 1996). Support for the Applicants' 900 megahertz spread spectrum transmitter dates back at least to November 17, 1994, wherein the Applicants first described and claimed the use of a 900 megahertz spread spectrum transmitter in their particular application -- the present application is a continuation of that November 17, 1994 application. Applicants submit the use of a 900 megahertz spread spectrum transmitter, especially battery powered, was not conventional as of the invention date of the presently claimed invention. Reconsideration of the rejection on this particular basis is requested. In addition, Applicants, pursuant to MPEP §2144.03 C, request the Examiner to produce documentary evidence supporting the assertion that the use of 900 megahertz transmitters in the Applicants' claimed system was "conventional in the art" at the time of the present invention.

In relation to Claim 33, and its dependents, it has been amended to delete "enclosure" to make clear this particular claim relates to an "enclosed material" in a plant, not a "building." Rein fails to teach and/or suggest the monitoring of an enclosed material, *e.g.*, a chemical, a food, or petrochemical enclosed in a pipe, tank, and/or running through a valve. Therefore, for this additional reason, Applicants request withdrawal of the obviousness rejection of Claim 33 and its dependents over Rein.

Claims 19-23, 27-31, 34, 35 and 38-43 were rejected over Rein in view of Lloyd. Applicants respectfully traverse and submit that Rein in combination with Lloyd, even if properly combinable, which Applicants do not concede, would not result in the claimed invention. First, it is unclear that Rein and Lloyd are even combinable. Rein is directed to an “air conditioning” or “comfort” system for inhabitants of a building in Class 236 and Lloyd is directed to a fire/safety compliance system in Class 702. Further, Lloyd is directed to hard wired sensors, not battery powered sensors and certainly not sensors in communication with battery powered transmitters. A review of Lloyd reveals it is directed to hard wired sensors which report into a single recorder. The sensors are not described as part of a battery powered system and there is absolutely no disclosure relating to individual transmitters (much less battery powered transmitters) in communication with the sensors. Lloyd discloses hard wired sensors reporting into recorder 14 and recorder 14 “is connected to off-site portion 20 by suitable communication means, such as through . . . a [single] radio frequency (RF) communication link.” (Col. 11, lines 50-54) (emphasis and bracketed text added). The sensors in Lloyd are never described as battery powered or as communicating with recorder 14 wirelessly. In addition, Lloyd’s communication link connected to recorder 14 is never described as being battery powered. Indeed, during a “main power outage” (thus, not battery powered), Lloyd teaches the entire system is supplied with power by a diesel generator, not by mere batteries. Unlike Lloyd’s system, the sensors/detectors and transmitters as presently claimed are powered by exhaustible power sources and report wirelessly.

Rein discloses a system comprising a zone sensor 58, preferably powered by a battery that includes a temperature sensor 64 and a transmitter 65. Rein’s disclosure is limited to the monitoring and control of the cooling of rooms of a building for inhabitants comfort. Rein discloses nothing in terms of detectors for monitoring pressures, levels, and/or fugitive emissions. Thus, Rein discloses nothing in terms of a battery powered system for detecting and reporting pressures, levels, and/or fugitive emissions. Rein certainly does not disclose a central processing location for processing pressure, level, and/or emission signals. And as noted previously, Rein teaches nothing with regard to the monitoring of enclosed materials, *e.g.*, material in pipes, valves, or tanks, *etc.*

As noted, Lloyd discloses hard wired non-battery powered sensors that report via wires for monitoring a fire/life safety system. Whereas, Rein discloses battery powered temperature sensors with transmitters for wirelessly transmitting “comfort” data. Even if one accepts the Examiner’s logic, *i.e.*, Rein could be modified by combining the teachings of Lloyd with Rein -- the combination does not result in the presently claimed inventions. For example, Lloyd teaches that to ensure “safety,” his major concern, one must include a back-up power system for his sensors and networks, including its communication links connected to its recorder 14. Lloyd expressly avoids the use of battery powered sensors or even a battery powered communication link and/or transmitter.

On the other hand, Rein is not concerned with safety, but is only concerned with “comfort,” and therefore, Rein is completely happy with the use of battery powered temperature detectors and transmitters. According to Rein, if a battery fails and someone gets too hot or a little uncomfortable, then it is not the end of the world. And, as noted, Rein teaches nothing in regards to sensing any other parameter besides “comfort” temperatures. Pressures, levels, and fugitive emissions are certainly not addressed in Rein. In any event, following the Examiner’s logic that “one skilled in the art would have readily recognized combining the Rein and Lloyd systems because it would provide comfort control and a safety system to occupants in a building,” even if correct (and legally proper), the combination would not result in the claimed inventions. Combining the teachings of Lloyd and Rein, to address comfort and safety would lead to a system of battery powered temperature detectors with wireless transmitters (for “comfort” management) and hard wired pressure sensors (that are expressly not battery powered for safety concerns) reporting to recorder 14 for communication through a single non-battery powered communication link, wherein the system includes a generator for electricity back up. Consequently, the “modification” of Rein’s “comfort” system, by the addition of Lloyd’s safety pressure sensor system simply does not teach and/or suggest the presently claimed inventions, *i.e.*, battery powered sensors in communication with battery powered transmitters for transmitting signals relating to temperature, plus at least one other signal relating to pressure, level, and/or emissions, plus a battery condition signal. Further, it is unclear what teaching the Examiner is relying upon to add pressure sensors (and/or level or emissions sensors) to Rein’s system. There is simply no

need to modify Rein's "comfort system" with Lloyd's pressure sensors. And as noted, Lloyd certainly does not teach the use of battery powered pressure sensors (nor level or emission sensors) with battery powered transmitters. Lloyd, focusing on safety, utilizes hard wired non-battery powered sensors and non-battery powered transmission of data. Applicants submit a *prima facie* case of obviousness has not been established. Withdrawal of the rejection is respectfully requested.


CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of Claims 1, 2, 4-10, 19-21, 23-35, 38, and 42 as amended.

Applicants enclose a Petition for One Month Extension of Time and authorize the Commissioner to charge the \$60.00 fee to Deposit Account No. 50-2148 of Baker Botts L.L.P. Applicants believe there are no further fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If the above amendments and remarks do not put the current application in condition for allowance, Applicants respectfully request an interview with the Examiner.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants


Bruce W. Slayden
Reg. No. 33,790

Date: 5/8/2006

SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **31625**
512.322.2606
512.322.8383 (fax)